Supreme Court, U.S.
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No. 93-596

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1993

EDWARD BONTKOWSKI,

Petitioner,

vs.

FIRST NATIONAL BANK OF CICERO,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the 7th Circuit

PETITIONER'S REPLY

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REPLY REASONS FOR GRANTING THE WRIT

The bank fails to explain why the Petitioner should have discovered the bank's wire fraud earlier. Until Petitioner learned of the bank's wire fraud he did not know and should not have known that the elements of a RICO action against the bank existed. The 7th Circuit's opinion in United States v. Bruun 809 F 2d 397 (7th Cir. 1987) deals with the same loan transaction involved in the Petitioner's case. F.B.I. agent Spenelli testified that a few days before Ronald Berkowitz pledged the bonds for the Bontkowski loan that Spenelli checked to see if the bonds had been reported stolen and truthfully told Berkowitz that the bonds had not been reported stolen. 809 F 2d at 409 Nothing about the seizure of the bonds or the Petitioner's indictment put him

on notice that the bank was lying when its agent said that he had checked the bonds and the bonds were alright.

The bank continued to maintain that it did nothing wrong throughout the litigation with the true owners of the bonds. With the publication of First National Bank of Cicero v. Lewco Securities Corp. 860 F 2d 1407 (7th Cir. Oct. 27, 1988) it became clear that the bank had not checked with the Securities Information Center at the time of the Bontkowski loan. 860 F 2d at 1413

Bontkowski states in his affidavit in opposition to the motion to dismiss that he did not learn that the bank lied to him until 1988.

If the accrual rule adopted by the Third Circuit in Keystone Insurance Co. v. Houghton 863 F 2d 1125 (3rd Cir. 1988) is adopted by this Court.

Bontkowski's claim is timely. This case gives the Court the opportunity to resolve the conflicts among the circuits on RICO accrual. The writ should be granted.

Respectfully submitted.

William J. Stevens